IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 66 of 2004

WITH

CIVIL APPLICATION No 1533 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE K.A.PUJ

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

CREATA ICE CREAM LIMITED

Versus

AHMEDABAD ELECTRICITY CO. LTD

Appearance:

1. Appeal from Order No. 66 of 2004

MR MB GANDHI for Petitioner No. 1

MRS TRUSHA M GANDHI for Petitioner No. 1

MR PRAFUL N THAKKAR WITH MR KB PUJARA for Respondent.

CORAM : HON'BLE MR.JUSTICE K.A.PUJ

Date of decision: 08/03/2004

ORAL JUDGEMENT

ADMIT. Mr.K.B. Pujara, learned advocate appearing for Mr. P.N. Thakkar for respondent waives service of notice on behalf of respondent - A.E.C. With the joint request of the parties, the matter is taken up for final hearing today.

2. This Appeal from Order is filed against the order dated 11.02.2004 passed below Exh. 6 (notice of motion) in R.C.S. No. 2603 of 2003 by the learned City Civil Judge whereby the notice of motion taken out by the plaintiff - present appellant was dismissed and order dated 06.10.2003 granting ad-interim injunction was vacated.

3. Heard Mr. M.B. Gandhi, learned advocate for the appellant and Mr. K.B. Pujara, learned advocate appearing for the respondent. After having perused the order passed by the learned City Civil Judge as well as the documents produced, this Court is of the view that the entire matter can be sorted out by directing the appellant to deposit a sum of Rs.5,00,000/- (Rupees Five Lacs Only) with the respondent - A.E.C. towards the demand raised against the appellant vide the disputed bill dated 20.09.2003 and the issue raised in the suit and the dispute with regard to the bill raised against the appellant may be referred to the Electrical Inspector. The Electrical Inspector will go into the said aspect of the matter and take appropriate decision in the matter after considering the facts and circumstances of the case as well as the submissions of the respective parties. It is also made clear that the amount of Rs.5,00,000/- (Rupees Five Lacs Only) which is ordered to be deposited by this Court will be appropriated against the amount which may be determined by the Electrical Inspector. The appellant is directed to deposit a sum of Rs. 5,00,000/- (Rupees Five Lacs Only) within a period of four weeks from today.

4. With the aforesaid direction and observation, not only this Appeal from Order and Civil Application No. 1533 of 2004 are disposed of, but the Civil Suit No. 2603 of 2003 also loses its survival value. All these proceedings have, therefore, come to an end. This Appeal from Order is allowed to the above extent without any order as to costs. The present appellant will move to the City Civil Court for withdrawal of the suit.

5. It is also made clear that the Court has not gone into much detail and merits of the matter and Electrical

Inspector will decide the issue in accordance with law.

[K.A. PUJ, J.]

#Savariya#

*****